

SECOND REGULAR SESSION

# SENATE BILL NO. 1160

93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATORS MAYER, GRIESHEIMER, NODLER, ALTER, VOGEL AND KOSTER.

Read 1st time February 28, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 64, RSMo, by adding thereto fifteen new sections relating to the Missouri county planning act, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 64, RSMo, is amended by adding thereto fifteen new sections, to be known as sections 64.1000, 64.1003, 64.1006, 64.1009, 64.1012, 64.1015, 64.1018, 64.1021, 64.1024, 64.1027, 64.1030, 64.1033, 64.1036, 64.1039, and 64.1042, to read as follows:

**64.1000. 1. Sections 64.1000 to 64.1042 shall be known as the "Missouri County Planning Act".**

**2. Sections 64.1000 to 64.1042 provide for the enactment of plans and regulations in counties for the protection of the public health, safety and welfare, and are not intended to prevent the enactment or enforcement of additional laws and regulations on the same subject which are not in conflict with the provisions of these sections. These sections shall be broadly construed to include any powers that are reasonably expedient to the achievement of these purposes. The enumeration of powers in these sections shall not be exclusive, nor be a limit on the general authority conferred on counties to adopt ordinances.**

**64.1003. As used in sections 64.1000 to 64.1042, the following terms shall mean:**

**(1) "Agency", a body with the authority to produce public improvements contemplated under the comprehensive plan;**

**(2) "Building line" or "building setback line", the line within a property which defines a horizontal distance to be provided between an exterior building wall or building support and the adjacent property**

8 line;

9 (3) "Flood plain", an area along a stream or other water course  
10 subject to periodic or intermittent flooding, the limits of which are  
11 designated on maps by federal, state, or county government based on  
12 engineering studies and determinations and adopted by the local  
13 legislative authority;

14 (4) "Major street plan", a plan established under sections 64.1000  
15 to 64.1042 defining the system of highways, streets, and drainage  
16 systems, including any amendments or additions resulting from the  
17 approval of subdivision plats and the subsequent filing of such  
18 approved plans;

19 (5) "Public improvement", any improvement, facility, or service  
20 together with its associated public site or right-of-way necessary to  
21 provide transportation, education, park or recreation, drainage, public  
22 or private utilities, energy, or other services which benefit the public;

23 (6) "Nonconforming use", a use of any principal or accessory  
24 building, structure, or land which was lawfully established but which  
25 does not presently conform to the county's land development  
26 regulations;

27 (7) "Subdivision", any land, vacant or improved, which is divided  
28 or proposed to be divided into two or more lots, parcels, or tracts for  
29 the purpose of offer, sale, lease, or development, whether immediate or  
30 future. "Subdivision" includes the division or development of land for  
31 residential or nonresidential purposes, whether by deed, metes and  
32 bounds description, devise, intestacy, lease, map, plat, or other  
33 recorded instrument. "Subdivision" does not include condominiums or  
34 the division of land into parcels for cemetery purposes.

64.1006. 1. A planning commission may be established by the  
2 procedures provided in subsection 2 or 3 of this section.

3 2. Any county in this state may make, adopt, amend, and carry  
4 out a county plan and any county commission may establish and  
5 appoint a planning commission with the powers and duties as set forth  
6 in sections 64.1000 to 64.1042.

7 3. Any group of registered voters from any county not having a  
8 planning commission may circulate a petition for the formation of a  
9 planning commission.

10 (1) Petitions proposing the formation of a planning commission

11 shall be signed by the number of registered voters in the county equal  
12 to at least five percent of the total votes cast in the county for governor  
13 at the last gubernatorial election.

14 (2) Petitions proposing the formation of a planning commission  
15 shall be filed with the election authority of the county not later than  
16 5:00 p.m. on the thirteenth Tuesday preceding a general election.

17 (3) The petition shall consist of sheets of uniform size. The space  
18 for signatures on either side of a petition page shall be no larger than  
19 eight and one-half by fourteen inches, and each page shall contain  
20 signatures of registered voters from only one county. Each page of  
21 each petition for the formation of a planning commission shall be in  
22 substantially the following form:

23 To the Honorable ..... County Clerk of  
24 ..... County:

25 We, the undersigned, citizens and registered voters of  
26 ..... County, respectfully order that the following  
27 question be placed on the official ballot, for acceptance or  
28 rejection, at the next general election to be held on the  
29 ..... day of .....: "Should a planning commission  
30 be established in ..... County to assume responsibility  
31 for preparation of a county comprehensive plan?"; and  
32 each for himself or herself says: I have personally signed  
33 this petition; I am a registered voter of the state of  
34 Missouri and ..... County; my registered voting address  
35 and the name of the city, town or village in which I live  
36 are correctly written after my name.

37 CIRCULATOR'S AFFIDAVIT

38 STATE OF MISSOURI )

39 )

40 COUNTY OF ..... )

41 I, ..... a resident of the state of Missouri, being first  
42 duly sworn, say (print or type names of signers)

43 REGISTERED VOTING NAME, DATE, ADDRESS, ZIP,  
44 CONGR. NAME, (Signature) SIGNED (Street)(City, Town or  
45 Village) (Printed or Typed)

46 (Here follow numbered lines for signers) signed this page  
47 of the foregoing petition, and each of them signed his or

48 her name thereto in my presence; I believe that each has  
49 stated his or her name, registered voting address and city,  
50 town or village correctly, and that each signer is a  
51 registered voter of the state of Missouri and ..... County.

52 .....

53 Signature of Affiant (Person obtaining signatures)

54 Address of Affiant

55 Subscribed and sworn to before me this ..... day of

56 .....

57 .....

58 Signature of Notary Public (Seal)

59 My commission expires .....

60 If this form is followed substantially, it shall be sufficient, disregarding  
61 clerical and merely technical errors.

62 (4) The validity of each petition filed pursuant to provisions of  
63 this section shall be determined in the manner provided for new party  
64 and independent candidate petitions in sections 115.333, 115.335 and  
65 115.337, RSMo.

66 (5) Upon the filing of a valid petition for the formation of a  
67 planning commission, it shall be the duty of the election authority to  
68 have the following question placed on the official ballot, in the same  
69 manner other questions are placed, at the next general election:

70 "Should a planning commission be established in  
71 ..... County to assume responsibility for the  
72 creation of a county comprehensive plan?".

73 (6) The votes for and against the question shall be counted and  
74 certified in the same manner as votes on other questions.

75 (7) If the question is approved by a majority of the voters at the  
76 election, a planning commission shall be appointed as provided in this  
77 chapter and shall have the same rights and responsibilities provided by  
78 law for all planning commissions.

79 (8) Any person who is a registered voter of a county not having  
80 a planning commission may sign a petition for the formation of a  
81 commission in the county. Any person who signs a name other than the  
82 person's own to any petition or knowingly signs the person's name  
83 more than once to the same petition or who knows the person is not a  
84 registered voter at the time of signing such petition, or any officer or

85 person willfully violating any provision of this section shall be guilty  
86 of a class two election offense.

87 4. The county commission shall appoint the members of the  
88 planning commission, and shall, by resolution, ordinance, or order,  
89 establish the procedures for membership, compensation, terms,  
90 vacancies, and removal of the planning commissioners. The planning  
91 commission shall elect its own chair and shall adopt rules of procedure  
92 consistent with sections 64.1000 to 64.1042 and any local regulations  
93 delegating authority to the planning commission. The planning  
94 commission shall appoint a secretary to keep a public record of its  
95 resolutions, transactions, findings, and recommendations; schedule and  
96 provide notice of all public meetings; and keep records of all public  
97 hearings.

98 5. The planning commission of any county shall have the  
99 following powers under sections 64.1000 to 64.1042:

100 (1) To cause to be prepared a comprehensive plan and other  
101 associated plans;

102 (2) To review and adopt a comprehensive plan and other  
103 associated plans, and to review and adopt any updates, amendments,  
104 and revisions to such plans;

105 (3) To cause to be prepared subdivision, zoning, and other  
106 regulations, and amendments to such regulations for unincorporated  
107 areas of the county, and to recommend such regulations or amendments  
108 for adoption by the county commission;

109 (4) To review all plat applications for accordance with adopted  
110 subdivision regulations;

111 (5) To review all public improvements in the county planning  
112 jurisdiction for accordance with the comprehensive plan;

113 (6) To review zoning regulations, and amendments to zoning  
114 regulations, and zoning maps;

115 (7) To appoint employees and contract with consultants, as  
116 authorized by the county commission;

117 (8) Such other powers as may be necessary and proper to  
118 perform the duties imposed upon it by law;

119 (9) All other powers delegated to it by the county commission.

64.1009. 1. The purpose of a comprehensive plan is to guide and  
2 accomplish the coordinated, efficient, and orderly physical

3 development of the county and its environs that will, based on a careful  
4 and comprehensive analysis and after sufficient public input and  
5 review, best promote the health, safety, and welfare. Each element of  
6 the plan, as described in subsection 2 of this section, accomplishes this  
7 purpose through analysis of existing conditions and trends,  
8 identification of issues, opportunities, goals, and policies, development  
9 of reasonable projections, forecasts, and assumptions about anticipated  
10 future conditions or impacts, consideration of interrelationships  
11 between plan elements, prioritization of issues and actions, and  
12 preparation of implementation strategies which identify how goals may  
13 be achieved.

14 2. The planning commission may determine the applicability of  
15 the elements described in this subsection to the county. A  
16 comprehensive plan for a county may contain any of the following  
17 elements addressing all unincorporated areas of the county and any  
18 infrastructure or services the county provides to incorporated  
19 jurisdictions in the county:

20 (1) Policies and maps or other description of land classifications  
21 to guide current and future development and redevelopment in areas  
22 to which the county plan is made applicable, including general  
23 locations of future land uses, goals, and characteristics of future  
24 development. The land use element may consider the suitability of land  
25 for development or redevelopment, including topography, geology,  
26 hydrology, natural resources, and any existing site or building  
27 conditions;

28 (2) Policies for transportation systems, including their  
29 relationship to land use. The transportation element may include a  
30 map or maps generally identifying existing, programmed, planned, or  
31 potential transportation facilities, and a description of the design,  
32 extent, and qualities of these facilities;

33 (3) Policies to provide adequate housing quality and supply to  
34 meet forecasted population needs. The housing element may include  
35 needed support in achieving a range of housing choices for various  
36 discrete or special needs populations;

37 (4) Policies for community facilities to serve the population,  
38 including, but not limited to, solid waste management and disposal,  
39 water supply, waste water treatment and disposal, electric supply,

40 communication facilities, public safety, schools, libraries, parks and  
41 recreation, and other government or quasi-government services. The  
42 community facilities element may include an analysis of desired levels  
43 of service, and recommended levels of service need not be uniform  
44 throughout the county, but may vary based on population  
45 characteristics, recommended land uses, or development  
46 characteristics;

47 (5) Policies to promote the stabilization, retention, or expansion  
48 of the economy and employment opportunities. The economic  
49 development element may include analysis, forecasts, and policies  
50 related to labor forces, land markets, consumer markets, business  
51 sectors, or other applicable economic characteristics;

52 (6) Policies for the identification, utilization, and management  
53 of scarce, threatened, or nonrenewable natural and manmade resources  
54 in the county, including the risk and impact of natural hazards. The  
55 preservation element may identify valued resources, assess the relative  
56 importance of those resources, and provide an analysis of actions or  
57 strategies that can strengthen the viability of those resources;

58 (7) Policies to ensure the social and physical welfare of the  
59 citizens of the county. The human services element may identify  
60 sectors of the population that have special needs and may require  
61 special services, training, assistance, or facilities to attain an  
62 acceptable quality of life, and may identify the role of county  
63 government in facilitating or providing such specialized services;

64 (8) Policies regarding the design of public and private  
65 development, considering the character, function, impacts, and  
66 interrelationship of public and private spaces and buildings, public or  
67 common open space, and desired building qualities including scale,  
68 mass, architectural features, or other design or aesthetic elements. The  
69 community design or urban design element may include general  
70 countywide recommendations or recommendations for specific land  
71 areas or for specific land use categories or development patterns;

72 (9) Policies regarding the cumulative environmental, economic,  
73 fiscal, and social impacts of decisions and actions over the life of the  
74 plan. The sustainability element may include, but is not limited to,  
75 analysis of development, transportation, and building practices on  
76 ecosystems or critical or sensitive resources, and may be conducted on

77 a countywide, ecosystem, watershed, or other similarly comprehensive  
78 basis;

79 (10) Any county that prepares a comprehensive plan may add  
80 area plans which contain more detailed policies relating to specific  
81 land areas, but which shall not conflict with other portions of the  
82 comprehensive plan, and may add any other elements, studies,  
83 information, or data that the planning commission determines are not  
84 in conflict with the purposes of sections 64.1000 to 64.1042.

85 3. (1) After careful study and consideration of the conditions,  
86 issues, goals, public input, anticipated future events or conditions, and  
87 comprehensive countywide impacts of plans and policies, the planning  
88 commission may adopt the comprehensive plan as a whole by a single  
89 resolution. Studies and plans for incorporated jurisdictions in the  
90 county or any adjoining county may be considered in the findings and  
91 analysis, and may be factored into the recommendations of the  
92 comprehensive plan for unincorporated areas of the county.

93 (2) The planning commission shall accept and consider oral and  
94 written public comments throughout the process of developing the  
95 plan. Before the adoption, amendment, or extension of the plan, the  
96 planning commission shall hold at least one public hearing in order to  
97 encourage public participation in and awareness of the development of  
98 the plan. The hearing may be adjourned from time to time.

99 (3) Notice of the public hearing shall be published at least once  
100 in the county newspaper with the highest circulation at least fifteen  
101 days prior to the date of the hearing, and be posted continuously for  
102 fifteen days prior to the hearing on a bulletin board or other prominent  
103 place which is easily accessible to the public and clearly designated for  
104 that purpose at the principal office of the county and also at the  
105 location where the meeting is to be held. The notice shall fix the time  
106 and place for the hearing and shall describe the topic in general terms.

107 (4) The adoption of the plan requires a majority vote of the full  
108 membership of the planning commission. The adopting resolution shall  
109 refer expressly to the maps, descriptive matter, and other materials  
110 intended by the planning commission to form the whole or part of the  
111 plan. As the making of the whole county plan progresses, the planning  
112 commission may from time to time adopt a part or parts of the plan,  
113 any part to correspond generally with one or more of the elements of



114 the plan. The action taken shall be recorded as the adopted plan or  
115 part of the plan by the identifying signature of the secretary of the  
116 planning commission.

117 (5) The adopted plan shall be filed in the office of the planning  
118 commission, identified properly by file number. A notice of the plan  
119 adoption shall be provided to other agencies and departments as  
120 determined by the county commission, and the adopted plan or portion  
121 thereof shall be available at the offices of the planning commission and  
122 the county clerk for public inspection during normal office hours.

123 (6) A public involvement record shall be attached to and  
124 incorporated in the resolution approving the plan, and shall describe  
125 all public participation, notice, and outreach efforts undertaken by the  
126 county related to the preparation, consideration, and adoption of the  
127 plan.

128 (7) The county commission may review and accept the  
129 comprehensive plan by resolution;

130 4. (1) The planning commission may periodically review and  
131 amend the comprehensive plan of the county or any part thereof. The  
132 review may include discussion of the comprehensive plan during at  
133 least one regularly scheduled planning commission meeting. Notice of  
134 all review meetings shall be given in the same manner provided in  
135 sections 64.1000 to 64.1042 for adoption of the plan. Any interested  
136 party shall have the opportunity to comment on the plan during the  
137 review.

138 (2) Amendments of an adopted comprehensive plan may be  
139 prepared at any time upon the planning commission's initiative to  
140 revise, update, replace, add, or supplement elements of the  
141 plan. Amendments may be prepared for the plan in its entirety or for  
142 segments addressing a specific element or elements, or for a specific  
143 area of the county.

144 (3) When a comprehensive plan is amended in segments, it shall  
145 include a statement indicating specifically what portions of the existing  
146 comprehensive plan are being amended and what portions of the  
147 existing comprehensive plan are to remain as part of the adopted  
148 comprehensive plan.

149 (4) A comprehensive plan amendment is subject to the same  
150 procedures provided in sections 64.1000 to 64.1042 for preparation and

151 adoption of the initial comprehensive plan.

64.1012. 1. The planning commission may recommend and the  
2 county commission may adopt and amend regulations governing  
3 subdivisions of land in unincorporated areas to protect the public  
4 health, safety, and welfare in accordance with the comprehensive  
5 plan. The regulations may provide standards for:

6 (1) The location, width, design, and layout of streets, rights-of-  
7 way, and blocks;

8 (2) The size and location of open spaces;

9 (3) The width, area, and arrangement of lots, access, easements,  
10 and building lines; and

11 (4) The manner in which streets, water, sewer, drainage, and  
12 other utility services shall be improved and provided.

13 2. The regulations may provide that in lieu of the immediate  
14 completion or installation of such work, the planning commission may  
15 accept bond for the county commission in the amount and with surety  
16 and conditions satisfactory to the county commission, providing for and  
17 securing to the county commission the actual construction of such  
18 improvements and utilities within a period specified by the county  
19 planning commission, and the county commission shall have power to  
20 enforce such bond by all proper remedies.

21 3. Prior to adoption or amendment of the subdivision  
22 regulations, the planning commission shall hold a public hearing on the  
23 proposed subdivision regulations or amendment. Notice of the public  
24 hearing shall be published at least once in the official county  
25 newspaper at least fifteen days prior to the date of the hearing, and be  
26 posted continuously for fifteen days prior to the hearing on a bulletin  
27 board or other prominent place which is easily accessible to the public  
28 and clearly designated for that purpose at the principal office of the  
29 county and at the location where the hearing is to be held. The notice  
30 shall fix the time and place for the hearing and shall describe such  
31 proposal in general terms. A county commission may hold a public  
32 hearing, but no separate hearing is required for the adoption of  
33 subdivision regulations by the county commission after receiving the  
34 planning commission's recommendation.

35 4. Subdivision regulations shall establish standards for the  
36 development of a complete subdivision plat application, and shall

37 designate a person authorized to determine completeness of  
38 applications and official acceptance of a plat submitted to the county.

64.1015. 1. After the county commission has adopted and filed  
2 certified copies of subdivision regulations, no plat of a subdivision of  
3 land within the unincorporated area of the county shall be recorded  
4 until the plat is approved by the planning commission or as otherwise  
5 provided in this section. If the planning commission does not act upon  
6 the plat at an official meeting within thirty days from the date of  
7 official acceptance, the plat may then be deemed approved. If the plat  
8 is amended or rejected by the planning commission, the action may be  
9 overruled and the plat approved only by the county commission after  
10 a public hearing, provided the reasons for such overruling shall be  
11 specifically stated in the action by the county commission.

12 2. Any approved plat with dedication of public lands to the  
13 county or any other public body shall be submitted to the county  
14 commission, or other jurisdiction receiving dedicated lands, for  
15 acceptance of the dedication prior to recording. The acceptance shall  
16 be noted on the plat.

17 3. The legislative body of any municipality within the county  
18 may file with the planning commission a certified copy of a resolution  
19 of such council or board protesting against the action of the county  
20 planning commission approving a plat of any land lying within one and  
21 one-half miles of the limits of the incorporated area of the municipality.  
22 If such a protest is filed, the planning commission approval shall be  
23 deemed overruled, and such plat may be then approved only by a two-  
24 thirds vote of all of the members of the county commission, and only  
25 after the county commission has held a public hearing on the plat, with  
26 notice of the hearing as provided in sections 64.1000 to 64.1042.

27 4. The recorder of deeds shall record a plat of a subdivision of  
28 land in the unincorporated area of the county only after having  
29 received a certificate of authority from the planning commission  
30 secretary, who shall issue such certificate if such plat has been  
31 approved pursuant to the provisions of sections 64.1000 to 64.1042 and  
32 the subdivision regulations.

33 5. A county planning commission may, upon the written request  
34 of the legislative body of an incorporated area in which there is no  
35 municipal planning commission, pass upon subdivision plats within

36 said incorporated areas, and said plats shall be subject to all rules and  
37 regulations of the county planning commission and shall not be  
38 recorded until they have been approved in the same manner as a  
39 subdivision plat in an unincorporated area. If, however, the county  
40 planning commission does not agree to pass upon plats in an  
41 incorporated area, the county recorder must be advised of the fact by  
42 registered letter.

43         6. The planning commission, after hearing, may vacate any plat  
44 of a subdivision of land including roads, streets, highways, and alleys.  
45 At such hearing, the commission may require that expert witnesses  
46 providing evidence be sworn in so that their statements are statements  
47 made under oath. Upon the vacation of the plat, the recorder of deeds  
48 shall be notified in writing of the vacation. Any vacation of public  
49 lands, rights-of-ways, or easements shall be submitted to the county  
50 commission, or other jurisdiction in control of such lands, for approval  
51 of the vacation.

       64.1018. After a planning commission adopts a comprehensive  
2 plan of the county or any part thereof, no street, public improvement,  
3 or other public facilities, or no public utility, whether publicly or  
4 privately owned, where the location, extent and character thereof  
5 having been included in the recommendations and proposals of the  
6 plan, shall be constructed or authorized in the county until the  
7 location, extent, and character thereof has been submitted to and  
8 approved by the planning commission as being in accordance with the  
9 comprehensive plan. In the case of disapproval of the planning  
10 commission, the planning commission shall communicate its reasons to  
11 the county commission, or if the street, public improvement, public  
12 facility, or utility is one which the authorization or financing does not  
13 fall under the authority of the county commission, then the reasons  
14 shall be communicated to the board having authority over the public  
15 facility or utility. The county commission or other agency having  
16 jurisdiction, by vote of not less than two-thirds of the entire  
17 membership of its governing body, may overrule the disapproval  
18 stating the reasons for the overruling. Upon the overruling, the council  
19 or the appropriate agency or officer may proceed. The failure of the  
20 planning commission to act within sixty days after the date of official  
21 submission to it shall be deemed approval.

64.1021. The planning commission may adopt a major street plan  
2 for all unincorporated areas of the county in accordance with a  
3 transportation element of a comprehensive plan. The plan may include  
4 standards and recommendations for the location, extent, and design of  
5 streets, and for building setback lines of streets. The county may, by  
6 ordinance, establish building lines on any public street identified in the  
7 major street plan. Such building lines shall be established by the same  
8 procedure established in sections 64.1000 to 64.1042 for the adoption  
9 and amendment of zoning regulations. After the establishment of any  
10 such line, all buildings or other structures shall be erected,  
11 reconstructed or substantially repaired as specified by the building  
12 lines. The county commission shall appoint an appeals board with the  
13 same powers to vary the building lines in specific cases as provided  
14 and in the manner specified in sections 64.1000 to 64.1042 for a board  
15 of zoning adjustment. If a board of zoning adjustment exists, it shall  
16 serve as the appeals board with respect to application of the building  
17 lines to specific property.

64.1024. The planning commission may recommend and the  
2 county commission may adopt zoning regulations for all  
3 unincorporated areas of the county in accordance with the  
4 comprehensive plan or any specific area plan created under the  
5 comprehensive plan.

6 (1) Zoning regulations may divide the jurisdiction into districts  
7 for different types of buildings, uses of land, character of design, or  
8 intensity of development, as may be deemed suited to carry out the  
9 purposes of sections 64.1000 to 64.1042. All such regulations shall be  
10 uniform for each type of building or land uses throughout each district,  
11 but the regulations in one district may differ from those in other  
12 districts, and may differ for different building types or use types or  
13 mixture of use types in a single district. They may also designate  
14 special uses within districts with specific conditions or review  
15 processes. The regulations shall give reasonable consideration, among  
16 other things, to the existing character of the districts, their suitability  
17 for particular uses, conservation of the value of buildings and of  
18 existing development, and encouragement of the most appropriate use  
19 of land throughout the county.

20 (2) The regulations may include, but not be limited to, provisions

21 regulating:

22 (a) The kind, class, or form of buildings, including height, bulk,  
23 use, location, and design;

24 (b) The use of land and buildings for particular purposes, or  
25 classes or categories or mixtures of uses;

26 (c) The density of population or intensity of nonresidential  
27 structures;

28 (d) The extent and design of site elements such as parking,  
29 landscape, or signs;

30 (e) The design, size, location, and relationship of courts, yards,  
31 plazas, natural areas, or other open spaces; and

32 (f) The preservation of resources including water or other  
33 natural resources, agriculture land, flood plains, or historical  
34 structures.

35 (3) The regulations shall define the boundaries of zoning  
36 districts or any other special area under which the regulations differ  
37 from one area to another by incorporating a map or maps as part of the  
38 regulations, or by defining the boundaries in any other manner that  
39 clearly establishes the boundaries of the district or districts. The  
40 county shall designate one map as the "official zoning map" for the  
41 county, which shall indicate all zoning districts, or which may  
42 incorporate by reference any specific zoning map or materials which  
43 establish regulations for the property. The official zoning map shall be  
44 filed in the office of the county clerk or other such public office  
45 designated by the county commission.

46 (4) The regulations shall designate an individual as the  
47 administrative official responsible for interpretation and  
48 administration of the zoning regulations.

49 (5) Farm buildings and farm structures used for such purposes  
50 that are not in a designated flood plain shall be exempt from zoning  
51 regulations.

64.1027. 1. After the planning commission recommends necessary  
2 and appropriate regulations in accordance with the comprehensive  
3 plan or any specific area plan created under the comprehensive plan,  
4 the county commission may adopt or amend zoning regulations. The  
5 county commission may submit the question of adopting zoning  
6 regulations to voters prior to adoption.

7           2. The planning commission shall hold a public hearing on the  
8 proposed zoning regulations or amendment. Notice of the public  
9 hearing shall be published at least once in the county newspaper with  
10 the highest circulation at least fifteen days prior to the date of the  
11 hearing, and be posted continuously for fifteen days prior to the  
12 hearing on a bulletin board or other prominent place which is easily  
13 accessible to the public and clearly designated for that purpose at the  
14 principal office of the county and also at the location where the  
15 hearing is to be held. The notice shall fix the time and place for the  
16 hearing and shall describe such proposal in general terms. The hearing  
17 may be adjourned from time to time and within sixty days of the  
18 conclusion of the hearing, the planning commission shall submit its  
19 recommendations to the county commission, together with a written  
20 summary of the hearing. Any recommendation shall be by the  
21 affirmative vote of a majority of the entire membership of the planning  
22 commission.

23           3. The county commission either may:

24           (1) Approve the recommendations by the adoption of the  
25 regulations or amendment;

26           (2) Override the planning commission's recommendations or  
27 otherwise revise the recommendation by a two-thirds vote of all of the  
28 members of the county commission; or

29           (3) Return the recommendation to the planning commission for  
30 further consideration, together with a statement specifying the basis  
31 for the needed further consideration. If the county commission returns  
32 the planning commission's recommendations, the planning commission,  
33 after considering the same, may resubmit its original recommendations  
34 giving the reasons therefore or submit new and amended  
35 recommendations. Upon the receipt of any new recommendations, the  
36 county commission, by a simple majority of all of the members, may  
37 adopt, revise, or override such recommendations. If the planning  
38 commission fails to deliver its recommendations to the county  
39 commission following the planning commission's next regular meeting  
40 after receipt of the county commission's report, the county commission  
41 shall consider such course of inaction on the part of the planning  
42 commission as a resubmission of the original recommendations and  
43 may proceed accordingly. Any regulation, if in accordance with the

44 land use element or community design or urban design element of a  
45 plan, shall be presumed to be reasonable.

46 4. The county commission may from time to time change,  
47 supplement, or revise the regulations or boundaries of districts in  
48 accordance with the comprehensive plan or any specific area plan  
49 created under the comprehensive plan. The county commission shall  
50 establish in its zoning regulations the matters to be considered when  
51 approving or disapproving a request to amend the zoning map.

52 (1) Amendments to the text of the generally applicable zoning  
53 regulations may be initiated by the planning commission or county  
54 commission. Amendments to generally applicable zoning regulations  
55 shall follow the procedures established in subsections 1 and 2 of this  
56 section and any other additional procedures in the approved county  
57 zoning regulations.

58 (2) Amendments to the zoning map that affect regulations to a  
59 specific property may be initiated by the planning commission, the  
60 county commission, or a property owner or property owner's  
61 authorized agent. Amendments to the zoning map shall follow the  
62 procedures established in subsections 1 and 2 of this section, any other  
63 additional procedures in the approved county zoning regulations, and  
64 the following specific procedures:

65 (a) Published notice for any required public hearing shall  
66 include a legal description or a general description sufficient to  
67 identify the property under consideration. In addition to published  
68 notice, written notice of the proposed amendment shall be mailed at  
69 least fifteen days before the hearing to all owners of record of real  
70 property within the area to be altered and to all owners of record of  
71 real property located within at least six hundred feet of the area  
72 proposed to be altered, or greater distance specified in the county  
73 zoning ordinance;

74 (b) All notices shall include a statement that a complete legal  
75 description and application file is available for public inspection and  
76 shall indicate where such information is available;

77 (c) Regardless of the recommendation of the planning  
78 commission, if a valid protest petition against the amendment is filed  
79 in the office of the county clerk within fifteen days after the date of the  
80 conclusion of the planning commission's public hearing or any



81 additional public hearings required by the county zoning regulations,  
82 the amendment shall not be passed except by at least a two-thirds vote  
83 of all of the members of the county commission. A valid protest  
84 petition requires the signatures of the owners of record of thirty  
85 percent or more of the land area of any real property proposed to be  
86 rezoned, excluding streets and public ways, or signatures of the owners  
87 of record of thirty percent or more of the land area of real property,  
88 excluding streets and public ways, within the area required to be  
89 notified by this section of the proposed rezoning of a specific property;

90 (d) Regardless of the recommendation of the planning  
91 commission, if a valid municipal protest is filed in the office of the  
92 county clerk within fifteen days after the conclusion of the planning  
93 commission's public hearing or any additional public hearings required  
94 by the county zoning regulations, the amendment shall not be passed  
95 except by at least a two-thirds vote of all members of the county  
96 commission. A valid municipal protest requires a resolution of the  
97 governing body of any municipality whose corporate limits are within  
98 one and one-half miles of any land subject to the proposed amendment  
99 and the municipality has adopted a valid zoning ordinance within its  
100 corporate limits.

64.1030. 1. Any county commission which has adopted a zoning  
2 map and regulations as provided in sections 64.1000 to 64.1042 shall  
3 appoint a county board of zoning adjustment. The board shall consist  
4 of five residents of the county, but not more than two shall be residents  
5 of the incorporated area of the county. The membership of the first  
6 board appointed shall serve respectively: one for one year, one for two  
7 years, one for three years, two for four years. Thereafter members  
8 shall be appointed for terms of four years each. Members shall be  
9 removable for cause by the county commission upon written charges  
10 and after a public hearing. Vacancies shall be filled by the county  
11 commission for the unexpired term of any member whose term becomes  
12 vacant.

13 2. The board of zoning adjustment shall have the following  
14 powers and it shall be its duty:

15 (1) To hear and decide appeals where it is alleged there is error  
16 of law in any order, requirement, decision, or determination made by  
17 an administrative official or body in the enforcement or administration

18 of the county zoning regulations;

19 (2) To hear and decide all matters referred to it or which it is  
20 required to determine under the zoning ordinance adopted by the  
21 county commission as herein provided;

22 (3) Where, by reason of exceptional narrowness, shallowness,  
23 shape, or topography, or other extraordinary or exceptional situation  
24 or condition of a specific piece of property, the strict application of any  
25 regulation adopted under sections 64.1000 to 64.1042 would result in  
26 peculiar and exceptional difficulties to, or exceptional and  
27 demonstrable undue hardship upon, the owner of the property as an  
28 unreasonable deprivation of use as distinguished from the mere grant  
29 of a privilege. Upon an appeal relating to the property by the owner or  
30 person with a real property interest in such property, the board may  
31 authorize a variance from the strict application so as to relieve the  
32 demonstrable difficulties or hardships, provided the relief can be  
33 granted without substantial detriment to the public safety and welfare  
34 and without substantially impairing the intent, purpose, and integrity  
35 of the zoning map and regulations.

36 3. The board of zoning adjustment shall elect its own chairman  
37 and shall adopt rules of procedure consistent with the provisions of the  
38 zoning regulations and the provisions of sections 64.1000 to  
39 64.1042. The chairman or the acting chairman may administer oaths  
40 and compel the attendance of witnesses. All meetings of the board of  
41 zoning adjustment shall be open to the public, and minutes shall be  
42 kept of all proceedings and official actions, which minutes shall be filed  
43 in the office of the board and shall be a public record.

44 4. Appeals to the board of zoning adjustment may be taken by  
45 any owner, lessee or tenant of land, or by a public officer, department,  
46 board or bureau, affected by any decision of a body or official acting to  
47 administer zoning regulations. The appeals shall be taken within a  
48 period of not more than three months of such decision, and in the  
49 manner provided by the rules of the board. An appeal shall stay all  
50 proceedings in furtherance of the action appealed, unless the officer  
51 from whom the appeal is taken shall certify to the board that by reason  
52 of facts stated in the certificate a stay would, in his opinion, cause  
53 imminent peril to life or property. In exercising the above powers, the  
54 board may reverse or affirm wholly or partly, or may modify the order,

55 requirement, decision, or determination appealed from and may take  
56 such order, requirement, decision, or determination as ought to be  
57 made, and to that end shall have all the powers of the officer from  
58 whom the appeal is taken.

59         5. Any owners, lessees, or tenants of buildings, structures, or  
60 land jointly or severally aggrieved by any decision of the board of  
61 zoning adjustment under the provisions of sections 64.1000 to 64.1042,  
62 may present to the circuit court of the county in which the property  
63 affected is located, a petition, duly verified, stating that the decision is  
64 illegal in whole or in part, specifying the grounds of the illegality, and  
65 asking for relief. Upon the presentation of the petition, the court shall  
66 allow a writ of certiorari directed to the board of adjustment or the  
67 county commission, respectively, of the action taken and data and  
68 records acted upon, and may appoint a referee to take additional  
69 evidence in the case. The court may reverse or affirm or may modify  
70 the decision brought up for review. After entry of judgment in the  
71 circuit court in the action in review, any party to the cause may bring  
72 an appeal to the appropriate appellate court.

       64.1033. 1. Any violation of any regulation adopted under the  
2 authority of sections 64.1000 to 64.1042 shall be a misdemeanor. Any  
3 person with an interest in the property where a violation exists, or any  
4 person who knowingly commits, takes part or assists in the violation,  
5 may be subject to the same fines and penalties for other misdemeanors  
6 in the county. Each day of the offense may be considered a separate  
7 offense.

8         2. The county commission of any county that has appointed a  
9 county counselor and adopts or has adopted rules, regulations, or  
10 ordinances under the authority of sections 64.1000 to 64.1042 may by  
11 rule, regulation, or ordinance impose a civil fine for each  
12 violation. Any fines imposed and collected under such rules,  
13 regulations, or ordinances shall be payable to the county general fund  
14 to be used to pay for the cost of enforcement of such rules, regulations,  
15 or ordinances.

16         3. A county, county commission, or planning commission, and  
17 any person, the value or use of whose property is or may be affected by  
18 such violation, may institute any appropriate action or proceedings to  
19 enforce the adopted regulations and to remove violations.

20           4. No owner, or agent of the owner, of any land located within  
21 the platting jurisdiction of any county that has adopted subdivision  
22 regulations may transfer, sell, agree to sell, or negotiate to sell that  
23 land by reference to or by other use of a plat of any purported  
24 subdivision of the land before the plat has been approved by the county  
25 commission or planning commission and recorded in the office of the  
26 appropriate county recorder. Each such transfer, sale, or agreement  
27 shall be a separate violation, and in addition to all other remedies, a  
28 county may enjoin or vacate the transfer or sale or agreement by legal  
29 action, and may recover the penalty in such action.

30           5. The county may designate an administrative officer or official  
31 with power to cause any land, building, structure, place or premises to  
32 be inspected and examined and to order in writing the remedying of  
33 any condition found to exist therein or thereat in violation of any of the  
34 regulations or orders adopted or made under the authority of sections  
35 64.1000 to 64.1042.

36           6. Any owner, lessee, or tenant who, having been served with an  
37 order in writing signed by the zoning administrative official to correct  
38 or remove any such violations, shall fail to comply with the order  
39 within ten days after service, or who shall continue to violate any of  
40 the regulations or orders made under the authority of sections 64.1000  
41 to 64.1042 in the respect named in the order, shall be guilty of a  
42 misdemeanor.

          64.1036. 1. The authority granted by sections 64.1000 to 64.1042  
2 shall not be exercised so as to deprive the owner, lessee, or tenant of  
3 any existing property of its use or maintenance for the purpose to  
4 which it is then lawfully devoted, except that reasonable regulations  
5 may be adopted for the gradual elimination of nonconforming uses.

6           2. The authority granted by sections 64.1000 to 64.1042 shall not  
7 interfere with such public utility services as may have been or may  
8 hereafter be specifically authorized or permitted by a certificate of  
9 public convenience and necessity, or order issued by the public service  
10 commission, or by permit of the county commission.

          64.1039. Counties are hereby authorized to enter into agreements  
2 to cooperate with any public or private organization, agency, or public  
3 body in the exercise and performance of any planning powers, duties,  
4 and functions; provided that the subject and purposes of any such

5 agreement shall be within the scope of the powers of such organization,  
6 agency, or body.

7 (1) A county may by legislative action or order enter into an  
8 agreement with one or more municipalities, counties, agencies, public  
9 bodies, or other organizations for joint planning cooperation, and may  
10 establish a joint planning committee for the designated joint planning  
11 area. The agreement shall specify the extent of authority for the joint  
12 planning committee.

13 (2) The planning commission may adopt plans prepared pursuant  
14 to cooperative agreements in the same manner as other plans enabled  
15 in sections 64.1000 to 64.1042.

16 (3) The county commission may adopt regulations pursuant to  
17 cooperative agreements in the same manner as zoning or subdivision  
18 regulations as enabled in sections 64.1000 to 64.1042.

64.1042. 1. Following the effective date of sections 64.1000 to  
2 64.1042, any county commission may by resolution elect to utilize the  
3 authority and procedures in sections 64.1000 to 64.1042 for county  
4 planning and implementation.

5 2. Nothing contained in sections 64.1000 to 64.1042 shall affect  
6 the existence or validity of a county ordinance or order adopted prior  
7 to August 28, 2006.

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